

The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GERALDINE BARABIN, as Personal Representative for the Estate of HENRY BARABIN, deceased,

NO. 2:07-cv-01454-JLR

~~PROPOSED~~ PRETRIAL ORDER

Plaintiff,

v.

ASTENJOHNSON, et al.,

### Defendants.

Pursuant to LCR 16(i), Defendant Scapa Dryer Fabrics, Inc. and Plaintiff jointly offer the following Proposed Pre-Trial Order.

## I. JURISDICTION

Jurisdiction is vested in this court by virtue of 28 USC §1332(a) as the matter in controversy exceeds \$75,000 and is between citizens of different States.

## II. CLAIMS AND DEFENSES

The plaintiff will pursue at trial the following claims:

1. Product Liability pursuant to Restatement of Torts (Second) §402A (1965);
  2. Negligence; and
  3. Damages

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- 1           a. Non-economic damages;
- 2           b. Medical and related expenses;
- 3           c. Loss of earnings, wages and future earnings; and
- 4           d. Loss of consortium for plaintiff Geraldine Barabin.

5           The defendant will pursue the following affirmative defenses and/or claims:

6           1. Scapa specifically denies that it mined, milled, processed, manufactured,  
7 supplied, distributed, marketed or sold any products containing asbestos that are causally  
8 related to Plaintiff's alleged injuries;

9           2. Whatever damages Plaintiff may have suffered, if any, were solely and  
10 proximately caused by the negligence or other conduct of one or more of the other defendants  
11 above-named, or, in the alternative, by the negligence or other conduct of some person,  
12 corporation, association, or legal entity not presently a party to this lawsuit;

13           3. The Plaintiff's complaint fails to state a claim against Scapa upon which relief  
14 may be granted;

15           4. Whatever damages Plaintiff may have suffered, if any, were directly and  
16 proximately caused by the actions of fellow co-workers of Mr. Barabin;

17           5. Whatever damages Plaintiff may have suffered, if any, were due solely or in  
18 part to the failure of Mr. Barabin's employer or employers to take adequate precautions and  
19 provide him with a safe place to work;

20           6. Scapa expressly denies that Mr. Barabin inhaled injurious quantities of asbestos  
21 fibers from products for which Scapa is liable. Any products for which Scapa might be held  
22 legally accountable and which Mr. Barabin allegedly used or was exposed to, if any, were not  
23 in the same condition as when sold, having been materially altered after the sale and prior to  
24 the use or exposure as alleged;

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1           7. That if it is proven at the time of trial that the products of Scapa were  
2 manufactured, furnished, supplied and/or sold as alleged in Plaintiff's complaint, and if said  
3 products were used in the fashion alleged, all of which is specifically denied except as  
4 otherwise set forth above, then any such product manufactured, supplied, furnished and/or sold  
5 by Scapa was so manufactured, furnished, supplied and/or sold in strict conformity with the  
6 prevailing state of medical art and the prevailing standards of the industry; Scapa's conduct,  
7 and any such product for which it bears responsibility, was at all times in strict conformity with  
8 the prevailing standard of medical science and the prevailing standards of the industry. The  
9 state of medical, scientific and industrial knowledge, art and practice was at all material times  
10 such that Scapa neither breached any duty owed to Mr. Barabin, nor knew or could have  
11 known, that the products for which it bears responsibility presented a foreseeable risk of harm  
12 to Mr. Barabin in connection with asbestos exposure from the normal and expected use of such  
13 products;

14           8. The liability of Scapa, if any, was secondary, passive and subordinate to the  
15 primary, active and intervening causation of the negligent acts and/or omissions of other  
16 entities and/or non-parties, for which Scapa is not liable;

17           9. Plaintiff has failed to join indispensable or necessary parties, including but not  
18 limited to: Amatex Corp., Aanco Holdings Inc., AC and S, Inc., American Shipbuilding, A.P.  
19 Green Services, Armstrong World Industries, The Artra Group including The Synkolid  
20 Company, Asbestec Industries Inc., Asbestospray Corp., Asbestos Claims Management, Atlas  
21 Corp., Babcock & Wilcox, Baldwin Ehret Hill, Beadex Manufacturing Company Inc.,  
22 Bethlehem Steel, Brunswick Fabrications, Inc., Burns & Roe Enterprises, Carey Canada Inc.,  
23 The Celotex Corp., Cassiar Mines, Combustion Engineering, Delaware Insulations, Philip  
24 Carey Co., Eagle-Picher Industries, Eastco Industrial Safety Corp., E. J. Bartells, Federal-

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1 Mogul, Forty-Eight Insulations, Fuller-Austin Insulation, G-I Holdings (GAF), Gatke Corp.,  
2 Hamilton Materials Inc., Harbison-Walker, Hillsborough Holdings, H.K. Porter Co., Johns  
3 Manville, Kaiser Aluminum & Chemical, Keene Corp., Kentile Floors, Lykes Brothers  
4 Steamship, M.H. Detrick, National Gypsum Co., Nicolet/Keasby-Mattison, North American  
5 Refractories Company, North American Asbestos Corp., Owens Corning, Pacor, Plibrico Co.,  
6 Pittsburgh Corning, Porter Hayden, Prudential Lines, Raybestos-Manhattan, Raymark  
7 Industries, Raytech Industries Corp., Rock Wool Manufacturing, Rutland Fire & Clay Co.,  
8 Skinner Engine Company, SGL Carbon, Shook & Fletcher, Standard Asbestos Manufacturing  
9 and Insulation, Standard Insulations, Todd Shipyards, Unarco Industries Inc., United States  
10 Gypsum Corp., United States Mineral Co., United States Lines, UNR Industries Corp., U.S.  
11 Steel, Walter Industries, Washington Group International, and W.R. Grace & Co., and the  
12 companies who manufactured and/or supplied the cigarettes and other tobacco products used  
13 by or around Mr. Barabin;

14 10. Mr. Barabin was employed by knowledgeable and sophisticated employers and  
15 any duty Scapa may have had to warn him/her of any potential harm incident to the normal use  
16 of products for which Scapa bears responsibility, which duty is denied, was discharged by  
17 his/her employer's intervening duty to give him/her any required warnings;

18 11. If at the time of trial Scapa is held accountable for any asbestos-containing  
19 products, Mr. Barabin's exposure to asbestos attributable to Scapa, if any, was of a de minimis  
20 nature and could not within a reasonable degree of medical certainty be the legal and proximate  
21 cause of Plaintiff's alleged injuries.

22 III. ADMITTED FACTS

23 The following facts are admitted by the parties:

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1           1. Decedent Henry Barabin worked as a laborer at the Texaco Refinery in Port  
2 Arthur, Texas from 1965 to 1968.

3           2. The pipes and equipment throughout the Texaco Refinery had asbestos-  
4 containing pipe, block, and Limpet spray insulation.

5           3. Decedent Henry Barabin cleaned up debris from asbestos-containing pipe,  
6 block, and Limpet spray insulation during his employment at the Texaco Refinery.

7           4. Decedent Henry Barabin worked in the Crown-Zellerbach Camas Mill from  
8 April 17, 1968 through November 30, 2001.

9           5. Decedent Henry Barabin worked as a papermaker at the Camas Mill.

10          6. During his employment at the Camas Mill, Mr. Barabin worked on and around  
11 all of the paper-making machines at the Camas Mill.

12          7. Mr. Barabin's work at the Camas Mill included changing dryer felts during shut  
13 downs and also as part of routine maintenance when felts ripped or broke.

14          8. Mr. Barabin cut the felts and installed new ones. He took scraps of the old felts  
15 home. He blew out the paper machines using compressed air. He cleaned up with compressed  
16 air after each shift and after paper breaks. He also worked around other laborers during this  
17 time period when they performed these same tasks.

18          9. The pipes and equipment throughout the Camas Mill had asbestos-containing  
19 pipe insulation, asbestos-containing block insulation, Limpet spray, asbestos-containing  
20 cement/mud, asbestos-containing board insulation, and internal asbestos-containing gaskets  
21 and packing.

22          10. Decedent Henry Barabin walked by or was a bystander when asbestos-  
23 containing pipe, block, Limpet spray, and board insulation and asbestos-containing  
24 cement/mud and internal gaskets and packing were being disturbed when these materials were

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1 being disturbed, including but not limited to walking past asbestos-insulated digesters, opening  
2 and closing valves, and observing millwrights, boilermakers, electricians, and insulators  
3 working in his vicinity removing, installing, and disturbing these products. Limpet spray  
4 insulation was present in the Texaco Refinery in Port Arthur, Texas when Plaintiff Henry  
5 Barabin worked there.

6       11. Decedent Henry Barabin had direct exposure to asbestos-containing pipe, block,  
7 Limpet spray, and board insulation and asbestos-containing cement/mud and internal gaskets  
8 and packing when he used compressed air to clean up.

9       12. Limpet was made of asbestos fibers, Portland cement, and oil. Formulas used  
10 either 100% crocidolite, amosite, or chrysotile, or a blend of amosite and crocidolite. It was  
11 typically used for fireproofing, or high temperature insulation. It was applied using a nozzle to  
12 spray the product on the item to be insulated.

13       13. From 1981 to 1996, over 1,000,000 (ONE MILLION) linear feet of insulation  
14 containing between 2% and 90% crocidolite, amosite, and/or chrysotile asbestos was abated  
15 from the Camas Mill. This insulation contained 2-90% crocidolite, amosite and/or chrysotile  
16 asbestos.

17       14. From 1981 to 1996, over 350,000 (THREE HUNDRED FIFTY THOUSAND)  
18 square feet of asbestos-containing transite was abated from the Camas Mill.

19       15. From 1959 to 1978, Scapa manufactured and distributed both asbestos and non-  
20 asbestos containing dryer felts.

21       16. From 1964 to 1982, Scapa supplied 505 dryer felts, 276 non-asbestos containing  
22 felts and 229 asbestos-containing felts, to the Camas Mill. Albany, AstenJohnson, Atlanta, and  
23 Niagara brand dryer felts were also utilized during Decedent Henry Barabin's employment at  
24 the Camas Mill.

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1           17. Mr. Barabin was diagnosed with malignant pleural mesothelioma on  
2 November 1, 2006. Mr. Barabin died on March 30, 2012 from mesothelioma.

3           IV. FACTUAL CONTENTIONS

4           The Plaintiff contends as follows:

5           1. Asbestos-containing dryer felts made by defendant Scapa Dryer Fabrics, Inc.  
6 were an integral component of the paper machines Mr. Barabin worked on.

7           2. Decedent Henry Barabin recalls Scapa dryer felts as felts that were used at the  
8 Camas Mill.

9           Scapa contends as follows:

10          1. Paper machine hoods at the Camas Paper Mill contained crocidolite during Mr.  
11 Barabin's employment.

12          2. In 1987, the employee locker room at Camas Paper Mill was contaminated with  
13 asbestos during an asbestos removal.

14          3. Decedent Henry Barabin did not recall working with any asbestos-containing  
15 Scapa dryer felts.

16          4. Mr. Barabin's mesothelioma was not caused by exposure to Scapa dryer felts.

17          5. Scapa's dryer felts were reasonably safe in their manufacture and design  
18 including warnings.

19          6. Scapa exercised ordinary care in manufacturing its dryer felts.

20          7. Mr. Barabin's mesothelioma was caused by exposure to amphibole asbestos  
21 (amosite and crocidolite) containing products, including but not limited to amphibole asbestos-  
22 containing thermal insulation, during the years he was employed at the Texaco Refinery in Port  
23 Arthur, Texas and at the Camas Paper Mill.

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## V. ISSUES OF LAW

Plaintiff submits the following as issues of law to be determined by the court:

1. Whether defendant Scapa Dryer Fabrics, Inc. is liable under Washington product liability law for manufacturing, selling and distributing an unreasonably dangerous product without warnings to which Decedent was exposed, causing Decedent's mesothelioma, an incurable and terminal disease?

2. Whether defendant Scapa Dryer Fabrics, Inc. failed to exercise ordinary care, failed to provide any warnings and is negligent under Washington negligence law for manufacturing, selling and distributing an unreasonably dangerous product to which Decedent was exposed, causing Decedent's mesothelioma, an incurable and terminal disease?

Scapa submits the following as issues of law to be determined by the court:

1. Whether Plaintiff can meet the burden of proof with regard her claims against Scapa under the laws of the State of Washington.

2. Whether Plaintiff's settlements are unreasonable entitling any judgment defendant to an offset of a reasonable settlement amount under RCW 4.22.060 and other applicable law.

## **VI. EXPERT WITNESSES**

(a) Each party shall be limited to 1 expert witness(es) on the issues of any specific topic. Defendant Scapa contends, and Plaintiff disputes, that Plaintiff's expert Steven Compton's testimony and opinions are cumulative of those of expert Christopher DePasquale and should be prohibited from testifying on that basis.

(b) The name(s) and addresses of the expert witness(es) to be used by each party at trial and the issue upon which each will testify is:

1. On behalf of plaintiff:

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1	Barry Ben-Zion, Ph.D. 3588 Kelsey Knolls Santa Rosa, California 95403	Dr. Ben-Zion is a forensic economist. Dr. Ben-Zion will be sufficiently familiar with the case to provide a meaningful oral deposition. Dr. Ben-Zion may testify regarding the economic value of losses in the case: Dr. Ben-Zion may also testify as to the loss of wages, pensions and other economic losses. Dr. Ben-Zion will also testify generally regarding the concept of present value and its application to economic losses, particularly wage loss, pension loss and future medical costs. Dr. Ben-Zion may also testify about the financial statements of various defendants and their financial condition and net worth. Dr. Ben-Zion may also testify regarding participation in and/or market share of various asbestos manufacturers as well as all related market share facts for which plaintiffs bear that burden of proof under applicable case law.
10	Arnold R. Brody, Ph.D. 1910 Glenmartin Drive Raleigh, NC 27615	Dr. Brody is a cellular biologist. Dr. Brody may testify as to the anatomy and associated asbestos-induced pathology of human and animal lungs, the causation and pathogenesis of asbestos-related disease and the deposition patterns of inhaled fibers and how this relates to asbestos exposures encountered in buildings and/or the work place. He will also testify regarding asbestos' effects on immune systems. Dr. Brody will further testify in accordance with his report in this case.
15	Dr. Carl Andrew Brodkin, M.D., M.P.H 3607 47th Avenue, N.E. Seattle, WA 98105	Dr. Brodkin is a specialist in pulmonary medicine and asbestos-related disease. Dr. Brodkin may testify as to his opinions and conclusions regarding asbestos disease and all related foundational aspects. Dr. Brodkin may also testify as to his opinions and conclusions regarding asbestos-related disease and the subject's medical condition, clinical course, etiology, diagnosis, treatments, medical monitoring, medical expenses and cost of care, and prognosis. Dr. Brodkin will further testify in accordance with his report in this case.

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1	Dr. Richard Cohen, M.D., M.P.H. 1942 Panorama Drive Saratoga, CA 95070	Dr. Cohen is a specialist in occupational and preventive medicine. Dr. Cohen may testify as to the state of the medical and scientific art concerning asbestos-related diseases at relevant times and regarding the nature and use of asbestos products and decedent's exposure to asbestos. Dr. Cohen may testify as to asbestos product defects, the release of asbestos fibers from asbestos products, disease potential of various asbestos products, asbestos health hazards, industry and Navy awareness, and state of the art relating to the hazards of asbestos, application rules and regulations, and other industrial hygiene related issues.
2	WILL TESTIFY	
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8	Steven P. Compton, PhD MVA Scientific Consultants 3300 Breckinridge Blvd #400 Duluth, GA 30096	Dr. Compton is a materials scientist and electron microscopist. Dr. Compton may testify regarding potential health hazards of asbestos in the work place, content of asbestos-containing products, release of asbestos fibers from asbestos-containing products, including but not limited to, dryer fabrics and felts, and similar products, resuspension of asbestos fiber, asbestos-containing product defects, the disease potential of asbestos-containing products, testing and monitoring techniques for detecting the presence of asbestos dust, including, but not limited to electron microscopy, and nature of asbestos and asbestos fibers as well as all material science and asbestos foundational aspects. Dr. Compton will further testify in accordance with his report in this case.
9	WILL TESTIFY	
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25	<b>PROPOSED PRETRIAL ORDER - 10</b> (2:07-cv-01454-JLR)	<b>Williams, Kastner &amp; Gibbs PLLC</b> 601 Union Street, Suite 4100 Seattle, Washington 98101-2380 (206) 628-6600

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1	Christopher DePasquale, CIH Compass Environmental, Inc. 1751 McCollum Parkway NW Kennesaw, GA 30144	Mr. DePasquale is a certified industrial hygienist with a Masters in Public Health. Mr. DePasquale may testify regarding EPA and state government policies, regulations and guideline documents pertaining to asbestos in buildings and the utility of air and dust sampling in determining building exposures and risks. Mr. DePasquale may testify as to all aspects of asbestos and asbestos products, the adequacy of knowledge, the state of knowledge, the release of asbestos fibers from asbestos products, and all physical characteristics of said fibers, including contamination, de-contamination and related abatement protocols, disease potential of various asbestos products, asbestos health hazards, industry awareness, and state of the art relating to the hazards of asbestos, applicable rules and regulations, and other industrial hygiene issues. This expert may testify regarding issues including but not limited to: asbestos containing dryer felts and fabrics, and/or other materials. This is not an exhaustive list of asbestos material which this expert may testify about, but merely representative and this expert may testify about any and all materials which contain asbestos. This expert may testify about the propensity and ability for asbestos-containing products to release dust and release asbestos dust into the air of persons using those products when they are in place, as well as fiber count ranges from said products when made, used or abated. This expert may testify about how such asbestos materials were used in their ordinary and intended manner, and how that ordinary and intended use causes the release of respirable asbestos dust. This expert may testify about the offensive and injurious aspects of asbestos fiber deposition once inhaled. This expert may testify about the visibility of dust containing asbestos as well as various product use videotapes. Mr. DePasquale will further testify in accordance with his report in this case.
20	Dr. David Tarin, M.D. 856 San Antonio Place San Diego, CA 92106	Dr. Tarin is a pathologist. Dr. Tarin may testify as to pathology, diagnosis and causation and other asbestos-related medical issues raised in the matter, as well as his examination of the pathology specimens. Dr. Tarin will further testify in accordance with his reports in this case.
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23	WILL TESTIFY	
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1	James R. Millette	Trial testimony of James Millette taken in <u>Henry Barabin and Geraldine Barabin v. AstenJohnson, Inc., et al.</u> , in the United States District Court, Western District of Washington in Seattle, Cause No. C07-1454RSL, on November 5, 2009.
2	WILL TESTIFY VIA PRIOR TRIAL TESTIMONY	
3	SCAPA Objects on the grounds that Mr. Millette was not previously disclosed as a witness in this trial and objects to use of prior trial testimony of an expert as affirmative testimony.	
4	Dr. Samuel Hammar	Trial testimony of Dr. Samuel Hammar taken in <u>Henry Barabin and Geraldine Barabin v. AstenJohnson, Inc., et al.</u> , in the United States District Court, Western District of Washington in Seattle, Cause No. C07-1454RSL, on November 9, 2009.
5	WILL TESTIFY VIA PRIOR TRIAL TESTIMONY	
6	SCAPA objects on the grounds that Dr. Hammar was not previously disclosed as a witness in this trial, Dr. Hammar testified as Scapa's expert in the prior trial, and it is improper for Plaintiff to use Scapa's expert to introduce cross-examination without there being any direct examination of the witness.	
7	Paul Carlson	Trial testimony of Mr. Paul Carlson taken in <u>Henry Barabin and Geraldine Barabin v. AstenJohnson, Inc., et al.</u> , in the United States District Court, Western District of Washington in Seattle, Cause No. C07-1454RSL, on November 9, 2009.
8	WILL TESTIFY VIA PRIOR TRIAL TESTIMONY	
9	SCAPA objects on the grounds that Mr. Carlson is Scapa's expert in this case and will be testifying live on Scapa's behalf. It is improper for Plaintiff to use Scapa's expert to introduce cross-examination before Scapa presents its expert. Plaintiff will have an opportunity to cross-examine Mr. Carlson and use his prior testimony to impeach him if appropriate.	
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## 1           2. On behalf of defendant:

2	Paul Carlson, CIH Paul Carlson Associates 4080 SE International Way, Suite B101 Milwaukie, OR 97222	Mr. Carlson is a certified industrial hygienist. Mr. Carlson may testify on industrial hygiene practices in pulp and paper mills. He may also testify about the environment, operations and workings in pulp and paper mills, including the paper machine areas of pulp and paper mills. He may testify specifically as to these topics as they pertain to the Crown Zellerbach Mill in Camas, WA, based on his prior work at and more recent visit to that paper mill. He may also testify about the air sampling studies undertaken by him and others in various paper mills, particularly around the paper machines and the dryer felts/fabrics used on the paper machines in the 1970s and 1980s. He may testify about his employment as a corporate industrial hygienist for Crown Zellerbach/James River Corporation and air sampling he conducted at various paper mills during his employment. He may also testify about his experience with Oregon OSHA. He may testify about the composition, construction, purpose, use and operation of dryer felts in papermaking. He may testify about testing conducted on dryer felts referenced in his report. He may also testify that, based upon his experience in the paper mills, the use of dryer felts/fabrics did not pose a health hazard to paper mill workers. He may testify regarding the OSHA warning label provisions concerning asbestos and why warnings labels were not required on chrysotile containing dryer felts.
3	Will Testify	Mr. Carlson may testify regarding Decedent's exposure to amphibole asbestos including but not limited to such exposures as the Port Arthur Refinery, the Camas Paper Mill, and other locations. He will testify that Mr. Barabin had zero to background ambient exposure levels from Scapa chrysotile-containing dryer felts.
4		Mr. Carlson may also respond to matters raised within his field of expertise by Plaintiff's experts in the presentation of Plaintiff's case-in-chief. Accordingly, Mr. Carlson's testimony is dependent upon the prior testimony of Plaintiff's experts and cannot be predicted with further specificity.
5		Mr. Carlson's testimony will be based upon his training, experience, research, education, writings, review of scientific literature concerning asbestos disease and other relevant matters, and review of
6		depositions, expert reports and documents and relevant to Mr., Barabin. Mr. Carlson is expected to testify
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	consistent with his report and his deposition given in this case.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	<p>James D. Crapo, MD 4650 South 4th Street Englewood, CO 80110</p> <p>May Testify</p> <p>Dr. Crapo is board certified in internal medicine and pulmonary disease. Dr. Crapo may testify about his review of Mr. Barabin's medical records and expert reports produced in this case. Dr. Crapo may testify about the anatomy and function of the human respiratory system, pulmonary function testing, diseases associated with exposure to asbestos and the development of related scientific and medical knowledge. Dr. Crapo may testify about the pulmonary aspects of asbestos exposure and the epidemiology relevant thereto, including such matters as dose response, cumulative exposure and causation thresholds, progression, cancer risk, scientific opinions and theories as to how asbestos may be involved in the cause of various cancers, and experimental animal studies relating to the initial biological response to asbestos. He may also testify regarding toxicology, the linear dose extrapolation model and quantitative risk assessment of different individuals with different levels and types of asbestos exposures and determine, insofar as science is able, the risks of those individuals to contract conditions which may be asbestos-related, as well as their risks of contracting various forms of cancer.</p> <p>Dr. Crapo may also testify about cancer risk from asbestos exposure including comments on the relevant literature, federal statistics and publications as well as the risk relevant to Mr. Barabin. Dr. Crapo may testify that low dose exposure to chrysotile asbestos does not cause mesothelioma. Dr. Crapo may further testify that dryer fabrics manufactured with chrysotile asbestos-containing yarn are not hazardous and that any possible exposure Mr. Barabin may have had to asbestos from Scapa dryer fabrics manufactured with chrysotile asbestos-containing yarn could not have caused Mr. Barabin's mesothelioma. Dr. Crapo may also testify about asbestos exposure among refinery workers and pulp and paper mill workers and what is known about the effects of such exposure as reflected by the medical and scientific literature.</p> <p>Dr. Crapo may also respond to matters raised within his field of expertise by Plaintiff's experts in the presentation of Plaintiff's case-in-chief. Accordingly, Dr. Crapo's testimony is dependent upon the prior testimony of Plaintiff's experts and cannot be predicted</p>

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1		with further specificity.
2		Dr. Crapo's testimony will be based upon his training, experience, research, education, writings, review of medical and scientific literature concerning asbestos disease and other relevant matters, and review of depositions, expert reports, documents and medical records relevant to Mr. Barabin. Dr. Crapo is expected to testify consistent with his report and his deposition given in this case.
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6	Andrew Churg, MD 1229 W 7 <sup>th</sup> Avenue Vancouver, BC V6H 1B7 Canada	Dr. Churg is a pathologist at the University of British Columbia in Vancouver, British Columbia. He is board certified in anatomic and clinical pathology. He may provide testimony, live or by deposition, regarding his examination of Mr. Barabin's medical records, work history and pathology material. He may also testify regarding the biological effects of asbestos and the evidence of the relationship between the inhalation of various forms of asbestos fibers and asbestos-associated disease and the factors that go into evaluating whether there is any medical risk from asbestos-containing products. Dr. Churg may also provide testimony regarding animal research and asbestos-related disease, the biological effects of asbestos and other dusts, cancer research, the practices and protocols regarding publication of scientific research, and the history of research into such matters in the United States and elsewhere.
7	Will Testify	
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16		Dr. Churg may generally testify concerning asbestos-related diseases and the effects of exposure to various asbestos-containing products upon persons in occupational and non-occupational settings. He may further testify regarding the epidemiology of asbestos-related diseases, fiber gradients, ambient levels of asbestos and the existence of a dose-response relationship between exposure to asbestos and asbestos-related diseases. He may also testify regarding asbestos causation thresholds and the relative risk of personal injury or death as a result of exposure to different types of asbestos at different cumulative exposure. Dr. Churg is expected to testify that Mr. Barabin's disease was not caused by his work with or around dryer felts.
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23		Dr. Churg may also respond to matters raised within his field of expertise by Plaintiff's experts in the presentation of Plaintiff's case-in-chief. Accordingly, Dr. Churg's testimony is dependent upon the prior testimony of Plaintiff's experts and cannot be predicted
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	with further specificity.  Dr. Churg's testimony will be based upon his training, experience, research, education, writings, review of medical and scientific literature concerning asbestos disease and other relevant matters, and review of depositions, expert reports, pathology material, documents and medical records relevant to Mr. Barabin. Dr. Churg is expected to testify consistent with his report which is concurrently being produced and his anticipated deposition to be given in this case.
Mark R. Newton Hagen Streiff Newton & Oshiro, Accountants, P.C. 1330 Broadway, Suite 430 Oakland, CA 94612  Will Testify	Mr. Newton is an expert economist. Mr. Newton will testify based upon his review of financial and other records of Plaintiff and/or Mr. Barabin, and any expert report produced by Plaintiff's economist in this case, as to his opinion of the value of the economic losses, if any, incurred by Plaintiff and/or Mr. Barabin as a consequence of Mr. Barabin's alleged injuries and subsequent death. Mr. Newton will testify to the matters contained in his report, curriculum vitae, fee schedule and list of testimony produced with this designation.  Mr. Newton may also respond to matters raised within his field of expertise by Plaintiff's experts in the presentation of Plaintiff's case-in-chief. Accordingly, Mr. Newton's testimony is dependent upon the prior testimony of Plaintiff's experts and cannot be predicted with further specificity.  Mr. Newton's testimony will be based upon his training, experience, research, education, writings, and review of depositions, expert reports, and financial documents relevant to Plaintiff and/or Mr. Barabin. Mr. Newton is expected to testify consistent with his report which is concurrently being produced and his anticipated deposition to be given in this case.
Joseph D. Wendlick, CIH 851 South Marine Hills Way Federal Way, WA 98003  May Testify	Mr. Wendlick is a Certified Industrial Hygienist. Mr. Wendlick may testify on industrial hygiene practices in pulp and paper mills. He may also testify about the air sampling studies he undertook in various paper mills, particularly around the paper machines and the dryer fabrics used on the machines in the 1970s and 1980s. He may also testify, based upon his experience in the paper mills, that the use of dryer felts on the paper machines did not pose a health hazard to paper mill workers.
	Mr. Wendlick is expected to testify that, based on his

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1973 air sampling tests during a "dry end" felt change, no hazardous asbestos exposure exists in the paper machine area of a paper mill as a result of a "dry end" felt change. He is also expected to testify, based on this test, that all work practices (and materials) connected with a "dry end" felt change were acceptable according to the OSHA Asbestos Standard in place at the time of the testing. Mr. Wendlick may also respond to matters raised within his field of expertise by Plaintiff in the presentation of their case in chief. Accordingly, Mr. Wendlick's testimony is dependent upon the prior testimony of Plaintiff's experts and cannot be predicted with further specificity.

Mr. Wendlick's testimony will be based on his training, experience, research, education, writings, review of medical and scientific literature concerning asbestos disease and other relevant matters, and review of depositions, expert reports, documents and medical records relevant to Plaintiff. Mr. Wendlick is expected to testify consistent with his deposition given in this case.

## VII. OTHER WITNESSES

1. Fact witnesses on behalf of Plaintiff:

<p>Plaintiff Geraldine Barabin c/o Brayton Purcell, LLP <i>To be contacted through plaintiffs' counsel</i></p> <p><b>WILL TESTIFY</b></p>	<p>Mrs. Barabin is expected to testify about her marriage and life with Decedent, her knowledge and understanding of the nature and extent of his exposure to asbestos and asbestos-containing products. Her understanding of the events surrounding the diagnosis of mesothelioma, Decedent's medical treatment and death; how Decedent's life was affected by the illness; how her life has been affected by the illness, and the facts pertaining to plaintiffs claim for economic and non-economic damages.</p>
<p>Bryan Barabin c/o Brayton Purcell, LLP <i>To be contacted through plaintiff's counsel</i></p> <p><b>POSSIBLE WITNESS ONLY</b></p>	<p>Mr. Barabin is expected to testify about his life with Decedent, his knowledge and understanding of the nature and extent of his exposure to asbestos and asbestos-containing products. His understanding of the events surrounding Henry Barabin's diagnosis of mesothelioma, Decedent's medical treatment and death; how Decedent's life was affected by the illness; how his life has been affected by the illness.</p>

1	Robert Barabin c/o Brayton Purcell, LLP	Mr. Barabin is expected to testify about his life with Decedent, his knowledge and understanding of the nature and extent of his exposure to asbestos and asbestos-containing products. His understanding of the events surrounding Henry Barabin's diagnosis of mesothelioma, Decedent's medical treatment and death; how Decedent's life was affected by the illness; how his life has been affected by the illness.
2	<i>To be contacted through plaintiff's counsel</i>	
3	POSSIBLE WITNESS ONLY	
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6	Decedent Henry Barabin	
7	Prior trial transcript	
8	WILL TESTIFY	
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13	Ivan Fearnhead	
14	Prior trial and deposition transcripts	
15	WILL TESTIFY	
16	Scapa objects to Plaintiff using prior testimony of its former corporate representative when its current corporate representative will be present and provide live testimony.	Ivan Fearnhead is Scapa's former corporate representative and will provide testimony regarding Scapa's corporate history and multiple issues related to Scapa's manufacture and sale of any asbestos-containing dryer fabrics.
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25	<b>PROPOSED PRETRIAL ORDER - 18</b> (2:07-cv-01454-JLR)	Williams, Kastner & Gibbs PLLC 601 Union Street, Suite 4100 Seattle, Washington 98101-2380 (206) 628-6600

1	Harry J. Merck, Jr.	
2	Prior deposition transcripts	
3	<b>WILL TESTIFY</b>	
4	Scapa objects to Plaintiff using prior	
5	testimony of its former corporate	
6	representative when its current	
7	corporate representative will be	
8	present and provide live testimony.	

## 2. Fact witnesses on behalf of Scapa:

9	James H. Price, III or other designated records custodian c/o McGuire Woods LLP One James Center 901 East Cary Street Richmond, VA 23219-4030	Mr. Price was the attorney for Fort James Corporation who personally directed and oversaw the collection of asbestos-related documents from the Camas Mill
10	May Testify	
11	James Doherty, a former Scapa employee 12408 School House Street Raleigh, NC 27614	Mr. Doherty, a former employee who was the vice president of manufacturing for Scapa starting in approximately 1990 and had previously worked at Albany International from the late 1960s to 1985 and at Niagara Lockport from 1985 to 1990 in various capacities. Mr. Doherty will testify on Scapa's corporate history and multiple issues related to Scapa's manufacture and sale of any asbestos-containing dryer fabrics, including the composition of the fabrics, why no warning labels were needed on the products, and why there was no health hazard from using the products. He may also offer testimony regarding Albany's dryer felts and customers.
12	Will Testify	
13	Harry Mickes, a former Crown Zellerbach Camas Mill employee	Deposition taken June 26, 2007. <i>Barabin v. Albany International Corp.</i> Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
14	May Testify	
15	Buford Sanders, a former Crown Zellerbach Camas Mill employee	Deposition taken June 27, 2007. <i>Barabin v. Albany International Corp.</i>
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1	May Testify	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
2	Leard Henry, a former Crown Zellerbach Camas Mill employee	Deposition taken June 28, 2007. <i>Barabin v. Albany International Corp.</i>
3	May Testify	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
4	Lloyd Niece, a former Crown Zellerbach Camas Mill employee	Deposition taken February 21, 1983 and August 31, 1984. <i>Crone v. Johns-Manville Corp.</i> , USDC Western District of Washington, Tacoma, Case No. C81-832M(T); <i>Niece v. Raymark Industries, Inc.</i> , USDC Western District of Washington, Seattle, Case No. C81-131-0M
5	May Testify	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
6	Plaintiff objects.	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
7	Hugh Holdt, a former Crown Zellerbach Camas Mill employee	Deposition taken May 17, 1982; February 22, 1983; and January 17, 2003. <i>Crone v. Johns-Manville Corp.</i> , USDC Western District of Washington, Tacoma, Case No. C81-832M(T); <i>Myhran v. Johns-Manville Corp.</i> , USDC Western District of Washington, Tacoma, Case No. C81-626T.
8	May Testify	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
9	Plaintiff objects.	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
10	Gerald T. Olsen, a former Crown Zellerbach Camas Mill employee	Deposition taken May 28, 1982. <i>Myhran v. Johns-Manville Corp.</i> , USDC Western District of Washington, Tacoma, Case No. C81-626T.
11	May Testify	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
12	Plaintiff objects.	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
13	Andrew Richardson	Deposition taken 5/11/1987 <i>Cannon v. Owens-Illinois</i> , USDC, District of South Carolina, Cause No. 84-1950
14	May Testify	He is former manager of the "Limpet" department for both Keasbey & Mattison (1959-1962) and AC & S (1962-1967) and Atlas Asbestos Company (1967-1970 when Limpet was discontinued)
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1                           **VIII. EXHIBITS**

2                           See Appendix of Exhibits and Objections to Authenticity and Admissibility.

3                           **IX. ACTION BY THE COURT**

4                           This case is scheduled for trial before a jury on March 26, 2018, at Seattle.

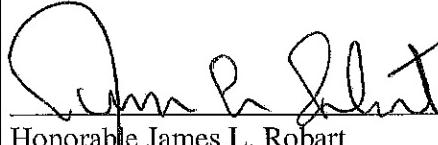
5                           Trial briefs shall be submitted to the court on or before March 19, 2018.

6                           Designations, objections, and counter-designations of prior testimony shall be  
7 submitted to the court on or before March 19, 2018.

8                           Jury Instructions requested by either party shall be submitted to the court on or before  
9 March 19, 2018. Suggested questions of either party to be asked of the jury by the court on  
10 voir dire shall be submitted to the court on or before March 19, 2018.

11                          This order has been approved by the parties as evidenced by the signatures of their  
12 counsel. This order shall control the subsequent course of the action unless modified by a  
13 subsequent order. This order shall not be amended except by order of the court pursuant to  
14 agreement of the parties or to prevent manifest injustice.

15                          22<sup>nd</sup>  
16 Dated this 6<sup>th</sup> day of March, 2018

17   
18 \_\_\_\_\_  
19 Honorable James L. Robart  
United States District Judge

20                          **FORM APPROVED**

21                          By:/s/ Meredith Boyden Good  
22                          Meredith Boyden Good  
23                          BRAYTON PURCELL, LLP  
24                          806 SW Broadway, Suite 1100  
25                          Portland, OR 97205  
                                Email: [mgood@braytonlaw.com](mailto:mgood@braytonlaw.com)

25                          Attorney for Plaintiff

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1 **FORM APPROVED**

2 s/Nicole R. MacKenzie  
3 Nicole R. MacKenzie, WSBA #45741  
4 601 Union Street, Suite 4100  
5 Seattle, WA 98101-2380  
6 Tel: (206) 628-6600  
7 Fax: (206) 628-6611  
8 Email: [nmackenzie@williamskastner.com](mailto:nmackenzie@williamskastner.com)

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1 **Attorney for Defendant Scapa Dryer Fabrics**

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## CERTIFICATE OF SERVICE

- The undersigned hereby certifies that on March 6<sup>th</sup>, 2018, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Meredith Boyden Good  
BRAYTON PURCELL, LLP  
806 SW Broadway, Suite 1100  
Portland, OR 97205  
Email: [portland@braytonlaw.com](mailto:portland@braytonlaw.com);  
[mgood@braytonlaw.com](mailto:mgood@braytonlaw.com)

**Attorneys for Plaintiff**

Signed at Seattle, Washington this 6<sup>th</sup> day of March , 2018.

s/Nicole R. MacKenzie  
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